S.B.Civil Misc. Transfer Petition No.42/2004
Smt. Suman @ Gogi
vs
Mahaveer Maru

DATE OF ORDER : - 29.8.2005

HON'BLE MR. PRAKASH TATIA,J.

Mr. DK Gaur, for the petitioner.
Mr. Suresh Shirmali,]
Mr. Rajesh Choudahry], for the non-petitioner.

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Heard learned counsel for the parties.

The petitioner submitted this transfer petition for transfer of a petition filed by her husband non-petitioner under Section 9 of the Hindu Marriage Act in the court at Nagaur. According to petitioner, marriage of the petitioner with non-petitioner was solemnized on 17th June, 1995 and, thereafter, petitioner's husband's behaviour against the petitioner was very cruel and he started harassing and he forced the petitioner to go out from the home and, therefore, the petitioner is residing at Bikaner. It is also submitted that criminal case has been lodged by the petitioner against the non-petitioner under Sections 498A and 408 IPC, which is at Bikaner. The petitioner also submitted that petitioner's family members cannot help the petitioner to attend the court at Nagaur. She also submitted that he has no income to bear the expenses for conducting the case at Nagaur, which is far away from the

Bikaner. She also stated that she is receiving threating from the non-petitioner and non-petitioner has levelled false and bogus allegations against the petitioner. In these circumstances, the petitioner is seeking transfer of the petition no.19/2004 filed by the non-petitioner to the court at Bikaner from Nagaur.

The non-petitioner submitted reply to the transfer petition and learned counsel for the non-petitioner vehemently submitted that the father of the petitioner is of the age of 51-52 years and he is serving in Railway, the petitioner's mother is also of the age of 45-46 years and the petitioner's two brothers are of the age of 20 and 21 only. Apart from those family members, the petitioner's uncle is of the age of 35-36 years. In view of the above, it is wrong that petitioner cannot be accompanied with any of the family members. Learned counsel for the non-petitioner further submitted that non-petitioner is ready to pay the expenses for travelling of the petitioner from her place of residence to the court, which is about 112 Kms only.

I considered the submissions of learned counsel for the parties. It is clear from the facts mentioned above itself and which are substantially are not in dispute that relation between the petitioner and the non-petitioner are not good to the extent of lodging criminal case. That itself may not be a ground for transfer of the case, but at the same

time, mere payment of some amount on account of travelling expenses or even other, cannot be a reason to say that that will be the total redrassal of the petitioner's for all grievances. The non-petitioner is also of the age of 25 years and when he also can well travel to the place where criminal case is pending then there appears no reason for opposing the transfer petition by the non-petitioner. The interest of justice can only be served when the case may be transferred to the nearest place of petitioner's residence.

In view of the above, the transfer petition is allowed. The petition under Section 9 of the Hindu Marriage Act having no.19/2004-Mahaveer Maru Vs. Smt. Summan pending in the court of Addl. District Judge, Nagaur is withdrawn from that court and the same is hereby transferred to the District Court, Bikaner for disposal in accorance with law. Both the parties are directed to remain present before the court of District Judge, Bikaner on 21.9.2005.

(Prakash Tatia), J.

c.p.goyal/-